

BY: barrientes

S.B. 1319

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of boxing and wrestling.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 3, Texas Boxing and Wrestling Act (Article 8501-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(9) "Boxing promoter" means a person to be licensed by the commissioner who arranges, advertises, or conducts a boxing contest, match, or exhibition, or shows or causes to be shown in Texas a closed circuit or pay-per-view telecast of any match involving any professional participant whether or not the telecast originates in Texas.

(10) "Telecast" means any visual transmission sent by any means of signal within, into, for or from this State. It includes closed circuit television, pay per view and television broadcast via satellite, cable or any other means.

(11) ~~(10)~~ "Wrestling promoter" means a person to be licensed by [registered with] the commissioner ~~(secretary of state)~~ who arranges, advertises, or conducts a wrestling contest, match, or exhibition, or shows or causes to be shown in Texas a closed circuit or pay-per-view telecast of any match involving any professional participant whether or not the telecast originates in Texas.

(12) ~~(11)~~ "Elimination tournament boxing promoter" means a person licensed by the commissioner ~~(department)~~ who arranges, advertises, or conducts an elimination tournament.

(13) ~~(12)~~ "Elimination tournament" means a boxing contest in which elimination tournament contestants compete in a series of matches until only one contestant remains in each weight category.

(14) ~~(13)~~ "Elimination tournament contestant" means a person who competes in an elimination tournament.

(15) ~~(14)~~ "Championship tournament" means an international, state, regional, or national elimination tournament that allows the winners of another elimination tournament to compete for a championship in each weight category.

(16) ~~(15)~~ "Regional tournament" means an elimination tournament that allows an

1 elimination tournament contestant from outside the immediate area where the tournament is held to
2 compete against local tournament contestants.

3 (17) ~~(16)~~ "Local tournament" means an elimination tournament that allows only a
4 resident of this state to compete.

5 (18) "Closed circuit telecast" means any telecast which is not intended to be available for
6 viewing without the payment of a fee, collected for or based upon such event viewed for the
7 privilege of viewing the telecast. Closed circuit telecast includes telecasts of events projected into
8 arenas, stadiums, and places where consumers pay to view the event.

9 (19) "Pay-per-view" means any telecast which is not intended to be available for viewing
10 without the payment of a fee, collected for or based upon such event viewed for the privilege of
11 viewing the telecast. Pay-per-view events include telecasts of events projected into individual
12 consumer homes where consumers pay to view the event.

13 (20) "Gross revenue or gross receipts" means the gross price charged for the sale or lease
14 of telecasting, closed circuit or pay-per-view rights without any deduction for commissions,
15 brokerage fees, production fees, distribution fees, production fees, advertising or other expenses or
16 charges, and shall include the face value of all tickets sold and complimentary tickets redeemed.

17 (21) "Professional wrestling" means any performance of wrestling skills and techniques
18 by two or more professional wrestlers, to which any admission is charged. Participating wrestlers
19 may not be required to use their best efforts in order to win, the winner may have been selected
20 before the performance commences and contestants compete for valuable consideration. Such
21 contests take place in a rope-enclosed ring and are fought in timed rounds.

22 (22) "Ultimate fighting, Ultimate Fighting Championship, or extreme fighting" means any
23 boxing or wrestling match, contest or exhibition, between two or more contestants, with or without
24 protective headgear, who use their hands, without gloves, or their feet, or both, and who compete for
25 a financial prize or any item of pecuniary value, and which match, contest, or exhibition is not
26 recognized by and not sanctioned by any officially recognized state, regional or national boxing or
27 athletic sanctioning authority, or any promotor duly licensed by the commissioner of the Texas
28 Department of Licensing and Regulation.

29 (23) "System operator" "cable operator" or "facility operator" means any person who
30 broadcasts or telecasts a closed circuit telecast or pay per view event regardless of the technology

1 used to transmit or receive the broadcast or telecast.

2 (24) "Event" means any occurrence in which a boxer, wrestler, or kick boxer displays or
3 exhibits his skills, performs or fights.

4 SECTION 2. Section 4 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
5 Statutes), is amended to read as follows:

6 (c) The commissioner is authorized to promulgate rules and regulations and hold
7 administrative hearings in accordance with the Administrative Procedure ~~[and Texas Register]~~ Act
8 (Government Code, Chapter 2001 [e Article 6252-13a, Vernon's Texas Civil Statutes]) and Article
9 9100, Vernons Texas Civil Statutes. The commissioner shall promulgate any and all reasonable
10 rules and regulations which may be necessary for the purpose of enforcing the provisions of the
11 Boxing and Wrestling Act. The commissioner is authorized to promulgate rules and regulations
12 governing professional kickboxing contests or exhibitions which shall be fought on the basis of the
13 best efforts of the contestants. The commissioner shall have the power and authority to revoke or
14 suspend the license or permit of any judge, boxer, manager, referee, timekeeper, second, or boxing
15 promoter for violations of any rule or regulation promulgated pursuant to this Act or for the violation
16 of any provision of this Act, and may deny an application for a license when the applicant does not
17 possess the requisite qualifications.

18 ~~[(c) In the conduct of any administrative hearing held pursuant to this Act, the~~
19 ~~commissioner may administer oaths to witnesses, receive evidence, and issue subpoenas and~~
20 ~~subpoenas duces tecum to compel the attendance of witnesses and the production of papers and~~
21 ~~documents related to matters under investigation. Administrative hearings shall be held in~~
22 ~~conformity with the Administrative Procedure and Texas Register Act (Government Code, Chapter~~
23 ~~2001 Article 6252-13a, Vernon's Texas Civil Statutes):]~~

24 SECTION 3. Section 5 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
25 Statutes) is amended to read as follows:

26 [(a)] Any party to the hearing aggrieved by the decision or order of the commissioner may
27 secure judicial review as prescribed by the Administrative Procedure Act, Government Code 2001,
28 subchapter G CONTESTED CASES: JUDICIAL REVIEW and Article 9100, Vernons Texas Civil
29 Statutes. Judicial review shall be by the substantial evidence rule. ~~[thereof in the following manner:~~

30 ~~—(1) The petition must be filed in a district court of Travis County, Texas, within 30 days~~

1 after the decision or order of the commissioner becomes final.

2 ~~—— (2) — The filing of a petition for review shall not itself stay the effect of the decision or~~
3 ~~order complained of, but the commissioner or the reviewing court may order a stay upon appropriate~~
4 ~~terms and if a stay is so granted no supersedeas bond shall be required.~~

5 ~~—— (3) — Service of process. The petition for review shall be served on the commissioner and~~
6 ~~upon all parties of record in any hearing before the commissioner in respect to the matter for which~~
7 ~~review is sought. After service of such petition upon the commissioner and within the time~~
8 ~~permitted for filing an answer or an soon thereafter as the record is made available to the~~
9 ~~commissioner, the commissioner shall certify to the district court in which such petition is filed the~~
10 ~~record of the proceedings to which the petition refers. The cost of preparing and certifying such~~
11 ~~record shall be paid to the commissioner by the petitioner and taxed as part of the cost in the case,~~
12 ~~to be paid as directed by the court upon final determination of said case.~~

13 ~~(4) — The review of any decision or order of the commissioner shall be tried by the court~~
14 ~~without a jury in the same manner as civil actions generally, but no evidence shall be admissible~~
15 ~~which was not adduced at the hearing on the matter before the commissioner or officially noticed~~
16 ~~in record of such hearing.~~

17 ~~—— (5) — The burden of proof shall be on the plaintiff. The reviewing court may affirm the~~
18 ~~action complained of or remand the matter to the commissioner for further proceedings.~~

19 ~~—— (6) — Appeals from any final judgment may be taken by either party in the manner provided~~
20 ~~for in civil actions generally, but no appeal bond shall be required of the commissioner.]~~

21 SECTION 4. Section 6 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
22 Statutes) is amended to read as follows:

23 (a) A person who violates a provision of this Act or any rule or regulation of the
24 department or the commissioner commits a Class A misdemeanor.

25 (b) Any person who violates any provision of this Act or the rules and regulations of the
26 department or the commissioner may be assessed an administrative [a civil] penalty to be paid to the
27 State of Texas in an amount not to exceed \$1,000 for each such violation [as the court may deem
28 proper].
29

(c) Whenever it appears that any person has violated or is threatening to violate any of the provisions of this Act or of the rules and regulations of the department or the commissioner, either the attorney general or the department may cause a civil suit to be instituted either for injunctive relief to restrain such person from continuing the violation or threat of violation or for assessment and recovery of the civil penalty or for both. Venue for such suit shall be in the district courts of Travis County, Texas.

(d) Any promoter, facility owner or operator, or system operator who intentionally makes a false or fraudulent report required pursuant to this act shall be guilty of a class A misdemeanor.

(e) Any promoter, facility owner or operator or system operator who intentionally fails to make a report of or to pay the taxes as required by this act shall be guilty of a class A Misdemeanor.

SECTION 5. Section 8 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil Statutes) is amended to read as follows:

(a) A person may not act as a boxing or wrestling promoter or an elimination tournament boxing promoter until the person has been licensed by the commissioner under this Act. [~~A person state may not act as a wrestling promoter until the person has registered with the secretary of.~~]

(b) The application for a boxing or wrestling promoter's license shall be made upon a form furnished by the commissioner and shall be accompanied by the license fee set by the commission. The application for a boxing or wrestling promoter's license shall be accompanied by a surety bond subject to the approval of the commissioner and condition on the payment of the tax imposed under Section 11 of this Act. The commissioner shall fix the sum of the surety bond, but the sum may not be less than \$300.

(c) The licensing [~~registration~~] of a wrestling promoter shall be made on a form furnished by the Commissioner [~~secretary of state~~] and shall be accompanied by the licensing [~~registration~~] fee set by the Commissioner [~~secretary of state~~] in an amount reasonably necessary to cover the administrative costs of licensing [~~registration~~]. The licensing [~~registration~~] application shall be accompanied by a \$5,000 surety bond to be filed with the Commissioner [~~secretary of state~~].

SECTION 6. Section 9 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil Statutes) is amended to read as follows:

(b) No person shall act as a professional wrestler, manager of a professional wrestler,

1 referee, judge, timekeeper, or matchmaker until he has been licensed pursuant to this Act.

2 (c) [(b)] The application for a license shall be made upon a form furnished by the
3 commissioner and shall be accompanied by the license fee.

4 (d) It is a violation of this Act to furnish false information on a license application.

5 (e) [(c)] Revenue obtained from license fees shall be deposited to the credit of the
6 General Revenue Fund.

7 SECTION 7. Section 10 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
8 Statutes) is amended to read as follows:

9 (b) The commissioner is authorized to promulgate rules and regulations setting forth
10 reasonable qualifications for an applicant seeking a license as a wrestler, wrestling promoter,
11 wrestling manager, matchmaker, judge or referee.

12 (c) [(b)] The commissioner may after investigation and hearing deny an application
13 for a license when the applicant has failed to meet the established qualifications or has violated any
14 provision of this Act or any rule or regulation issued pursuant to this Act.

15 (d) [(c)] The commissioner may waive any license requirement for an applicant with
16 a valid license from another state with which this state has a reciprocity agreement.

17 SECTION 8. Section 11 of the Texas Boxing Act (Article 8501-1, Vernon's Texas Civil
18 Statutes) is amended to read as follows:

19 Section 11. Gross Tax Receipts or Revenue and Reporting Requirements.

20 (a) LIVE CONTEST HELD IN TEXAS: Any person who conducts a boxing or
21 wrestling match, contest, or exhibition, including an elimination tournament, wherein an admission
22 fee is charged, shall furnish to the department within 21 calender days (including weekends) [72
23 hours] after the termination of the event, a duly verified report on a form furnished by the department
24 showing the number of tickets sold, prices charged, and amount of gross receipts obtained from the
25 event. A cashier's check or money order made payable to the State of Texas in the amount of three
26 percent of the total gross receipts of the event shall be attached to the verified report.

27 (b) CLOSED CIRCUIT TELECASTS: Any person who charges an admission fee for
28 exhibiting a simultaneous telecast of any event regulated by this Act [~~live, spontaneous, or current~~
29 ~~boxing match, contest, or exhibition~~] on a closed circuit telecast in Texas must possess a [~~boxing~~]

1 promoter's license issued pursuant to this Act and must obtain a permit for each closed circuit
2 telecast shown in Texas. The gross receipts tax described in Section 11(a) e [~~herein is applicable to~~
3 ~~said telecast, and the boxing~~] promoter shall furnish to the department within 21 calender days
4 (including weekends) [~~72 hours~~] after the event a duly verified report on a form furnished by the
5 department showing the number of tickets sold, prices charged, and amount of gross receipts
6 obtained from the event. A cashier's check or money order made payable to the State of Texas in
7 the amount of the tax due shall be attached to the verified report. This section applies to telecasts
8 shown in Texas regardless of the origin of the event.

9 (1) Under this section, the promoter shall notify the commissioner of the names
10 and addresses of all facilities to or through which the closed circuit telecast will be shown fourteen
11 (14) days prior to the date of the closed circuit event, and shall provide daily updates to the
12 commissioner of any additions and deletions of facilities.

13 (c) TELEVISION RIGHTS: Any person who sells television broadcast rights of a boxing
14 or wrestling match, contest, or exhibition must possess a boxing or wrestling promoters license
15 issued pursuant to this Act. This section applies to the sale of television rights wherein the event is
16 not simultaneously shown in a pay-per-view format. A three percent tax of the television rights is
17 applicable to such telecasts. However, such tax on television broadcasts shall not exceed \$50,000
18 per event. The boxing or wrestling promotor shall furnish to the Department within 21 calender days
19 (including weekends) after the event is televised, a duly verified report on a form furnished by the
20 department which shows the gross revenue to the promoter for television rights of the event. This
21 section applies only to an event held in Texas. A cashier's check or money order made payable to
22 the State of Texas in the amount of the tax due shall be attached to the verified report.

23 (d) PAY-PER-VIEW EVENTS: A promoter who charges or receives a fee for having an
24 event seen on a pay-per-view telecast that is shown in this state, utilizing a cable television system,
25 satellite dish or any other means of transmitting or receiving the telecast, shall pay three percent of
26 the promotor's gross revenue attributable to the individual's or entity's pay-per-view telecast fees,
27 exclusive of federal, state, or local tax. This tax is applicable to the gross revenue from the telecast
28 derived from Texas subscribers, regardless of the origin of the event. The promotor shall furnish
29 to the Department within 21 calender days (including weekends) after the event is broadcast, a duly

1 verified report on a form furnished by the department which shows the number of orders sold and
2 the price per order derived from viewership in Texas. A cashier's check or money order made
3 payable to the State of Texas in the amount of the tax due shall be attached to the verified report.

4 (1) Each system operator, cable operator, or facility operator whose facilities are
5 utilized to telecast an event under this Act shall, within 15 calendar days (including weekends)
6 following the date of the telecast, file a report with the Commissioner stating the number of orders
7 sold in Texas and the price per order.

8 (2) If an event is sold by the number of rounds fought, each system operator, cable
9 operator, or facility operator shall report to the Commissioner the price per round, the number of
10 orders sold in Texas and the number of rounds fought.

11 (3) System operators, cable operators, or facility operators are not responsible
12 for payment of taxes under this Act.

13 (e) The commissioner shall provide forms for reporting under this section.

14 (f) The department may audit reports filed under this section.

15 (g) ~~{(c)}~~ Revenue obtained from the gross receipts taxes imposed under this section
16 shall be deposited to the credit of the General Revenue Fund.

17 ~~[(d) — The department may audit a report filed under Subsection (a) of this section made by~~
18 ~~a person conducting an elimination tournament under this section.]~~

19 SECTION 8. New Article 3, Section 21 of the Texas Boxing Act (Article 8501-1, Vernon's
20 Texas Civil Statutes) is added to read as follows:

21 ARTICLE 3 Prohibitions

22 SECTION 21.

23 (a) Ultimate or extreme fighting is prohibited in the State of Texas.

24 (b) Anyone who promotes or participates in ultimate fighting, or anyone who serves as
25 an agent, principal partner, publicist, vendor, producer, referee, or contractor of or for ultimate
26 fighting is guilty of a class "A" misdemeanor.

27 (c) Any medical personnel who administers to, treats or assists any participants of
28 ultimate or extreme fighting shall not be subject to the provisions of this section.

29 (d) No license or permit will be issued for any contests known as "ultimate fighting" or
30 any activities similar in nature. For purposes of this Act, "ultimate fighting" shall mean a contest

1 or bout whereby any part of the contestant's body may be used as a weapon or any means of fighting
2 may be used with the specific purpose to intentionally injure the other contestants in such a manner
3 that they may not defend themselves and in which there is no referee. No person, partnership,
4 organization, corporation, limited liability company or association shall conduct, compete or
5 otherwise participate in any contest or bout as defined in this section and Section 3.

6 SECTION 9. This Act takes effect September 1, 1997.

7 SECTION 10. The importance of this legislation and the crowded condition of the calendars
8 in both houses create an emergency and an imperative public necessity that the constitutional rule
9 requiring bills to be read on three several days in each house be suspended, and this rule is hereby
10 suspended.

S.B. No. 1319

By Barrientes

A BILL TO BE ENTITLED

AN ACT: RELATING TO THE REGULATION OF BOXING AND WRESTLING.

MAR 13 1997

MAR 18 1997

Filed with the Secretary of the Senate

Read and referred to Committee on STATE AFFAIRS

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: unanimous consent
years, nays

Read second time, , and ordered engrossed by: unanimous consent
a viva voce vote
years, nays

Senate and Constitutional 3 Day Rule suspended by a vote of years, nays.

Read third time, , and passed by: A viva voce vote
years, nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk

Received from the Senate

Read first time and referred to Committee on

Reported favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of years, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of years, nays, present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of years, nays, present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with amendments.

Concurred in House amendments by a viva voce vote years, nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays